

107TH CONGRESS
2D SESSION

H. R. 4911

To require the Secretary of Agriculture to conduct a wildland-urban restoration charter forest demonstration project in the Pike and San Isabel National Forests and Cimarron and Comanche National Grasslands to increase community involvement in decisionmaking regarding the management of those forests and grasslands, to evaluate the feasibility of using a predecisional review process for projects conducted as part of the demonstration project, to provide stewardship contracting authority as part of the demonstration project, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 11, 2002

Mr. TANCREDO introduced the following bill; which was referred to the
Committee on Resources

A BILL

To require the Secretary of Agriculture to conduct a wildland-urban restoration charter forest demonstration project in the Pike and San Isabel National Forests and Cimarron and Comanche National Grasslands to increase community involvement in decisionmaking regarding the management of those forests and grasslands, to evaluate the feasibility of using a predecisional review process for projects conducted as part of the demonstration project, to provide stewardship contracting authority as part of the demonstration project, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION. 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
 5 “Pike and San Isabel Restoration Charter Forest Act of
 6 2002”.

7 (b) TABLE OF CONTENTS.—The table of contents for
 8 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

Sec. 3. Wildland-urban restoration charter forest demonstration project for Pike
 and San Isabel National Forests and Cimarron and Comanche
 National Grasslands.

Sec. 4. Independent scientific review and monitoring.

Sec. 5. Community management council.

Sec. 6. Relation to National Environmental Policy Act of 1969.

Sec. 7. Predecisional review process for demonstration project.

Sec. 8. Stewardship contracting authority.

Sec. 9. Retention and use of receipts.

Sec. 10. Authorization of appropriations.

9 **SEC. 2. DEFINITIONS.**

10 In this Act:

11 (1) The terms “wildland-urban restoration
 12 charter forest demonstration project” and “dem-
 13 onstration project” mean the demonstration project
 14 required by this Act for covered National Forest
 15 System lands in the State of Colorado.

16 (2) The terms “community management coun-
 17 cil” and “council” mean the community manage-
 18 ment council appointed under section 5.

19 (3) The term “covered National Forest System
 20 lands” means the Pike and San Isabel National For-

1 ests and the Cimarron and Comanche National
2 Grasslands.

3 (4) The terms “independent scientific panel”
4 and “panel” mean the panel assembled by the Sec-
5 retary under section 4.

6 (5) The term “Secretary” means the Secretary
7 of Agriculture, acting through the Chief of the For-
8 est Service.

9 **SEC. 3. WILDLAND-URBAN RESTORATION CHARTER FOR-**
10 **EST DEMONSTRATION PROJECT FOR PIKE**
11 **AND SAN ISABEL NATIONAL FORESTS AND**
12 **CIMARRON AND COMANCHE NATIONAL**
13 **GRASSLANDS.**

14 (a) DEMONSTRATION PROJECT REQUIRED.—The
15 Secretary of Agriculture, acting through the Chief of the
16 Forest Service, shall conduct a wildland-urban restoration
17 charter forest demonstration project for the Pike and San
18 Isabel National Forests and Cimarron and Comanche Na-
19 tional Grasslands for the purpose of increasing community
20 involvement in decisionmaking regarding the management
21 of the covered National Forest System lands and evalu-
22 ating various methods, described in this Act, to improve
23 the management and health of the covered National For-
24 est System lands.

1 (b) COMMENCEMENT OF DEMONSTRATION
 2 PROJECT.—The Secretary shall commence the demonstra-
 3 tion project as soon as practicable after the submission
 4 of the initial report of the independent scientific panel
 5 under section 4.

6 (c) DURATION.—The Secretary shall terminate the
 7 demonstration project at the end of the 10-year period be-
 8 ginning on the date the demonstration project is com-
 9 menced under subsection (b).

10 (d) RELATION TO OTHER NATIONAL FOREST SYS-
 11 TEM LAWS.—Except as provided in this Act, during the
 12 term of the demonstration project, the Secretary shall con-
 13 tinue to manage the covered National Forest System lands
 14 under all of the laws and regulations governing occupancy,
 15 use, and management of the National Forest System.

16 **SEC. 4. INDEPENDENT SCIENTIFIC REVIEW AND MONI-**
 17 **TORING.**

18 (a) REVIEW OF ECOLOGICAL, SOCIAL, AND ECO-
 19 NOMIC SUSTAINABILITY.—

20 (1) INITIAL REVIEW.—The Secretary shall as-
 21 semble an independent scientific panel to conduct an
 22 assessment, using accepted measures and indicators,
 23 of the ecological, social, and economic sustainability
 24 of the covered National Forest System lands, taking
 25 into consideration such factors as forest health, sus-

1 ceptibility to catastrophic fire, biological diversity,
2 and economic productivity of the covered National
3 Forest System lands.

4 (2) SUBMISSION OF RESULTS.—Not later than
5 one year after the date of the enactment of this Act,
6 the panel shall submit to the Secretary and Congress
7 a report containing the results of the assessment
8 conducted under this subsection.

9 (b) SUBSEQUENT MONITORING OF DEMONSTRATION
10 PROJECT.—

11 (1) MONITORING PLAN.—The panel shall pre-
12 pare a monitoring plan to be used to track the im-
13 plementation of the wildland-urban restoration char-
14 ter forest demonstration project.

15 (2) REVISED REVIEW.—At the end of the first
16 five years of the demonstration project and upon the
17 completion of the demonstration project, the panel
18 shall revise the assessment conducted under sub-
19 section (a) and resubmit it to the Secretary and to
20 Congress.

21 (3) EFFECTS OF CHARTER PROJECT.—Using
22 the information collected from the monitoring plan,
23 the panel shall include in each revised assessment an
24 evaluation of the positive and negative impacts of
25 the demonstration project on changes in the ecologi-

1 cal, social, and economic sustainability and suscepti-
2 bility to catastrophic wildfire of the covered National
3 Forest System lands.

4 **SEC. 5. COMMUNITY MANAGEMENT COUNCIL.**

5 (a) ESTABLISHMENT AND PURPOSES.—The Sec-
6 retary shall establish a community management council as
7 part of the wildland-urban restoration charter forest dem-
8 onstration project for the purpose of—

9 (1) advising the Secretary and the supervisor of
10 the covered National Forest System lands on the
11 broad array of environmental, economic, and social
12 issues related to the management, occupancy, and
13 use of the covered National Forest System lands;

14 (2) assisting in the development of binding pri-
15 orities for management activities, including haz-
16 ardous fuels reduction, watershed protection, disease
17 and invasive species treatment and control; and

18 (3) assisting the Secretary in the development
19 of the programmatic environmental impact state-
20 ment and consideration of proposed projects and ac-
21 tivities under section 6.

22 (b) APPOINTMENT AND MEMBERS.—The council
23 shall consist of 13 members, appointed by the Secretary
24 as follows:

1 (1) Five members appointed from nominations
2 provided by the Governor of Colorado.

3 (2) Four members appointed from nominations
4 provided by the senior Senator from Colorado.

5 (3) Four members appointed from nominations
6 provided by the junior Senator from Colorado.

7 (c) QUALIFICATIONS.—The members of the council
8 should be appointed from communities in close proximity
9 to the covered National Forest System lands and rep-
10 resent a broad range of interests, including conservation
11 interests, commodity and forest products interests, and
12 the interests of county and municipal governments in the
13 area. Members should have a demonstrated ability to con-
14 structively work toward beneficial solutions with a diverse
15 range of interests on complex land management issues.

16 (d) FOREST SUPERVISOR.—The Supervisor of the
17 covered National Forest System lands shall serve as an
18 ex officio member of the council.

19 (e) VACANCIES.—Vacancies on the council shall be
20 filled in the same manner as the original appointment.

21 (f) COMPENSATION.—Members of the council who are
22 not Federal employees shall serve without compensation.

23 (g) OTHER COUNCIL AUTHORITIES AND REQUIRE-
24 MENTS.—

1 (1) STAFF ASSISTANCE.—The council may re-
2 request the Secretary to provide staff assistance to the
3 council from Federal employees under the jurisdic-
4 tion of the Secretary.

5 (2) MEETINGS.—All meetings of the council
6 shall be announced at least one week in advance in
7 a local newspaper of record and shall be open to the
8 public.

9 (3) RECORDS.—The council shall maintain
10 records of the meetings of the council and make the
11 records available for public inspection.

12 (4) RELATION TO OTHER LAW.—The council
13 shall be exempt from the provisions of the Federal
14 Advisory Committee Act (5 U.S.C. App.).

15 **SEC. 6. RELATION TO NATIONAL ENVIRONMENTAL POLICY**

16 **ACT OF 1969.**

17 (a) PROGRAMMATIC ENVIRONMENTAL IMPACT
18 STATEMENT.—

19 (1) PREPARATION.—Not later than 60 days
20 after the appointment of all of the members to the
21 community management council, the Secretary shall
22 begin to develop a programmatic environmental im-
23 pact statement pursuant to the National Environ-
24 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.)

1 to establish the wildland-urban restoration charter
2 forest demonstration project.

3 (2) ROLE OF COUNCIL.—The Secretary shall
4 prepare the programmatic environmental impact
5 statement, and any amendment thereto, with the ad-
6 vice and cooperation of the council.

7 (b) CONTENT.—The programmatic environmental
8 impact statement for the demonstration project shall ad-
9 dress the following:

10 (1) Land and resource management goals and
11 objectives for the covered National Forest System
12 lands, including desired landscape conditions and
13 management outcomes and outputs, to be realized
14 during the term of the demonstration project, and at
15 various intervals thereof.

16 (2) Standards and guidelines for achieving the
17 land and resource management goals and objectives.

18 (3) A monitoring plan to ensure that project
19 level activities are consistent with the land and re-
20 source management goals and objectives and related
21 standards and guidelines.

22 (c) LEGAL REQUIREMENTS.—In preparing the pro-
23 grammatic environmental impact statement, the Secretary
24 shall comply with all applicable Federal environmental
25 statutes and their implementing regulations, including the

1 National Environmental Policy Act of 1969 (42 U.S.C.
2 4321 et seq.) and the Forest and Rangeland Renewable
3 Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.).
4 Upon establishment, the Secretary shall carry out only
5 those projects and activities on the covered National For-
6 est System lands that are consistent with the requirements
7 of this Act and the programmatic environmental impact
8 statement.

9 (d) ADOPTION.—The programmatic environmental
10 impact statement shall be considered as operative upon the
11 approval of the Secretary and the majority of the members
12 of the council.

13 (e) EFFECT OF ADOPTION.—

14 (1) CONSISTENT PROJECTS AND ACTIVITIES.—

15 If the Secretary determines that a proposed project
16 or activity under the demonstration project is con-
17 sistent with the requirements of this Act and the
18 programmatic environmental impact statement, the
19 Secretary shall not be required to do additional anal-
20 ysis under the National Environmental Policy Act of
21 1969 with regard to the project or activity notwith-
22 standing other regulations, policies, and other ad-
23 ministrative directives.

24 (2) INCONSISTENT PROJECTS AND ACTIVI-
25 TIES.—If the Secretary determines that a proposed

1 project or activity under the demonstration project is
2 not consistent with the requirements of this Act and
3 the programmatic environmental impact statement,
4 the Secretary may not approve the proposed project
5 or activity unless—

6 (A) the project or activity is revised so as
7 to be compatible with the programmatic envi-
8 ronmental impact statement; or

9 (B) the programmatic environmental im-
10 pact statement is amended, consistent with the
11 National Environmental Policy Act of 1969 and
12 the Forest and Rangeland Renewable Resources
13 Planning Act of 1974, so that the project or ac-
14 tivity is compatible with the amended pro-
15 grammatic environmental impact statement.

16 (f) CHALLENGE.—

17 (1) AUTHORITY TO FILE.—If an individual or
18 entity that meets the standing requirements nec-
19 essary to challenge a determination of the Secretary
20 under subsection (e) disagrees with the Secretary's
21 determination regarding the compatibility of an
22 project or activity with the programmatic environ-
23 mental impact statement, the person may file a
24 predecisional objection under section 7 with the Sec-
25 retary.

1 (2) RESPONSE.—If the Secretary, after con-
 2 sultation with the council, agrees with the appellant
 3 that the project or activity is not incompatible with
 4 the programmatic environmental impact statement,
 5 the Secretary may not conduct the project or activity
 6 unless—

7 (A) the project or activity is revised, as
 8 provided in subsection (e)(2)(A); or

9 (B) the programmatic environmental im-
 10 pact statement is amended, as provided in sub-
 11 section (e)(2)(B).

12 **SEC. 7. PREDECISIONAL REVIEW PROCESS FOR DEM-**
 13 **ONSTRATION PROJECT.**

14 (a) IN GENERAL.—The Secretary shall promulgate
 15 rules to establish a predecisional review process that would
 16 be used during the term of the wildland-urban restoration
 17 charter forest demonstration project in connection with
 18 site-specific projects for the covered National Forest Sys-
 19 tem lands.

20 (b) RELATION TO REQUIRED ENVIRONMENTAL
 21 ANALYSIS.—Subject to section 6, the predecisional review
 22 process shall not be construed to alter or waive any envi-
 23 ronmental analysis otherwise required as part of the plan-
 24 ning or implementation of a project for the covered Na-
 25 tional Forest System lands.

1 (c) REQUIRED ELEMENTS OF PREDECISIONAL RE-
2 VIEW.—

3 (1) NOTICE.—The rules required by subsection
4 (a) shall provide for notice of a proposed decision
5 and an opportunity to request review before a final
6 decision on a site-specific project is made.

7 (2) RIGHT TO REQUEST A PREDECISIONAL RE-
8 VIEW.—For a period not to exceed 30 days from the
9 date notice is provided pursuant to paragraph (1),
10 review of a proposed decision may be requested by
11 any individual or entity, but only if the individual or
12 entity submitted written comments during the prep-
13 aration stage of the project on the specific issue or
14 issues for which predecisional review is sought.

15 (3) COMPLETION OF REVIEW.—The review of a
16 request for predecisional review shall be completed
17 before issuance of a final decision regarding the
18 project at issue. The review shall be completed with-
19 in 30 days after the date the request was submitted.

20 (d) EXEMPTION.—The Secretary may exempt any
21 proposed decision responding to an unexpected or serious
22 event that would provide relief from hazards threatening
23 human health, property, and safety, natural resources, or
24 to provide for rehabilitation and recovery of forest re-

1 sources, from the predecisional review rules prescribed
2 under this section.

3 (e) EXHAUSTION OF PREDECISIONAL REVIEW PROC-
4 ESS.—Notwithstanding any other provision of law, an in-
5 dividual or entity must exhaust the predecisional review
6 process before the individual or entity may bring an action
7 in court challenging a site-specific project under the dem-
8 onstration project.

9 (f) PRESUMPTION.—In any predecisional review of a
10 management activity under the demonstration project, the
11 official or administrative entity responsible for the review
12 or the court with jurisdiction over litigation resulting from
13 the review shall give deference to the expert judgment of
14 the Secretary in identifying and interpreting the scientific
15 data that is the basis for the activity.

16 (g) RELATION TO FOREST SERVICE DECISION MAK-
17 ING AND APPEALS REFORM.—Section 322 of the Depart-
18 ment of the Interior and Related Agencies Appropriations
19 Act, 1993 (Public Law 102–381; 16 U.S.C. 1612 note),
20 shall not apply to activities conducted under the dem-
21 onstration project.

22 **SEC. 8. STEWARDSHIP CONTRACTING AUTHORITY.**

23 (a) USE OF EXISTING DEMONSTRATION AUTHOR-
24 ITY.—During the term of the wildland-urban restoration
25 charter forest demonstration project, the Secretary may

1 enter into stewardship and end result contracts for the
2 covered National Forest System lands in accordance with
3 section 347 of the Department of the Interior and Related
4 Agencies Appropriations Act, 1999 (as contained in sec-
5 tion 101(e) of division A of Public Law 105–277; 16
6 U.S.C. 2104 note), to accomplish the land management
7 goals specified in subsection (b) of such section.

8 (b) ADDITIONAL CONTRACTS.—The contracts en-
9 tered into under the authority of subsection (a) shall be
10 in addition to the stewardship and end result contracts
11 authorized under such section 347, section 338 of the De-
12 partment of the Interior and Related Agencies Appropria-
13 tions Act, 2001 (Public Law 106–291; 16 U.S.C. 2104
14 note), or any other provision of law.

15 **SEC. 9. RETENTION AND USE OF RECEIPTS.**

16 (a) RETENTION.—During the term of the wildland-
17 urban restoration charter forest demonstration project,
18 the Secretary shall retain the monetary proceeds from
19 commercial timber sales, special use permit fees, and all
20 other receipts derived from the covered National Forest
21 System lands and any funds appropriated with respect to
22 the covered National Forest System lands. Such receipts
23 and funds shall not be subject to overhead assessments.

24 (b) USE.—The Secretary shall use the funds for
25 projects for the covered National Forest System lands,

1 with priority placed on projects related to forest health,
2 restoration, watershed protection, hazardous fuels reduc-
3 tion, and disease and invasive species control.

4 (c) ROLE OF COUNCIL.—The Secretary shall consult
5 with the council in selecting projects under this section.

6 **SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

7 There is authorized to be appropriated to the Sec-
8 retary \$1,000,000 for each of the fiscal years 2003
9 through 2005 to implement this Act.

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